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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/594,913

07/24/2007

Reinhard Kernchen

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03/10/2010

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EXAMINER

LOPEZ, FRANK D

ART UNIT

PAPER NUMBER

3745

MAIL DATE

DELIVERY MODE

03/10/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/594,913	Applicant(s) KERNCHEN ET AL.	
	Examiner F. DANIEL LOPEZ	Art Unit 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 17 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 22-30,32-34 and 36-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 22-30,32-34 and 36-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Applicant's arguments filed December 17, 2009, have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to claims 22-30, 32-34 and 36-39 have been considered but are deemed to be moot in view of the new grounds of rejection. The new grounds of rejection are necessitated by the added limitations that try to remove the 112 problems.

Applicant's discussion of the drawings appears to be wrong. Applicant states that 2 is the first inlet. The specification indicates that 2 is the hydrodynamic coupling (e.g. page 12 line 3). It would appear from the claims that the first inlet is between the valve 30 and the reservoir 29. Note that the specification only discusses one inlet (6) which appears to be the claimed second inlet.

Applicant argues that Schust et al does not disclose a device that connects an inlet to an outlet to provide that the outlet allows operating fluid into the working chamber; or that there is a device that allows for simultaneous or pre-determined time delay filling of the working chamber by the inlet and the outlet. The examiner disagrees. Channels 13 and 15 of Schust et al form the circuit that connects the second inlet and the outlet together. When the first valve 21 connects the pump to the circuit, both the second inlet and the outlet are provided fluid to fill the working chamber, meeting the claimed limitation (see also the 122 rejection of claim 22).

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, in fig 2, the first inlet (claim 22), and a second inlet arranged on an end region of the first blade (claim 32) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to because element 28 must be labeled pressure generating device.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

Claims 22-30, 32-34 and 36-39 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 22 line 11-12 "said first inlet and said first outlet are coupled together via a circuit" is confusing, since it is the second inlet (6) that is coupled together to the first outlet by the circuit (23). In claim 22 line 18-20 "filling said working chamber simultaneously by said first inlet and said first outlet" is confusing, since the first inlet appears to be on a side of the valve (30) opposite the circuit (11), and as such does not really fill the working chamber. It is the second inlet (6) that fills the chamber, not the first inlet.

In claim 23 line 5 “a second device” is confusing, since it appears to be the same as the second device of line 3. In claim 23 line 5-6 “a second device comprises a third device” is confusing as to how the second device is different from the third device.

In claim 28 line 2-3 “a second valve arranged between said first and second inlets” is wrong, since the second valve (e.g. 9) is connected to the reservoir, but not to the same inlet as the first valve (30). In claim 28 line 3-4 “said second valve leading into said working chamber” appears to be wrong, since it only leads to the circuit, which further leads to the working chamber.

In claim 34 line 4 “a device selected from the group consisting of an operating medium delivery or filling chamber” is confusing, since there is no mention of an operating delivery chamber in the specification. It would appear that these are alternate names for the same element and so should be claimed under a single name.

In claim 36 line 2-3 “said device is arranged on an outer circumference of a blade wheel” appears to be wrong, since the filling chamber is indicated as being in an inner circumference rather than an outer circumference.

Claims not specifically mentioned are indefinite, since they depend from one of the above claims.

Claim Rejections - 35 USC § 102

Claims 22-30, 32-34 and 36-41, inasmuch as they are definite, are rejected under 35 U.S.C. § 102(b) as being anticipated by Schust et al. Schust et al discloses a hydrodynamic unit (especially fig 2a) and method of operating comprising primary and secondary impellers (2, 3) forming a working chamber fillable with operating medium; second inlet (e.g. connected to 15) and first outlet (e.g. connected to 13), coupled together in a closed circuit (13, 15), allowing operating medium into and out of the working chamber, respectively; a first device including a first valve (21), which connects the closed circuit to a first inlet of a pressure generating device (pump in line 17), and a second valve (connected to 18); wherein the second inlet is connected to a ring shaped filling chamber (22) via a plurality of channels (unnumbered, shown e.g. in fig 6a), incorporated into blades of one of the impellers.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:00 AM -4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

/F. Daniel Lopez/

F. Daniel Lopez
Primary Examiner
Art Unit 3745
March 10, 2010